

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF: Administrative Action
:
Deva Ashfaq, R.N. :
License # 26NR11742600 : **FINAL ORDER OF DISCIPLINE**
:
TO PRACTICE NURSING IN THE :
STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Deva Ashfaq ("Respondent") is a Registered Nurse (RN) in the State of New Jersey and has been a licensee at all relevant times.

2. On or about May 31, 2012, Respondent completed and submitted an online application for biennial license renewal for the period of June 1, 2012 - May 31, 2014. Respondent was asked on the biennial renewal application whether she had been arrested, charged or convicted of any crime or offense that she has not already reported to the Board since her last renewal. Respondent answered "No" to the question and certified that answer to be true by submitting the online application.

3. According to the New York State Education Department, Office of Professional Discipline, State Board for Nursing (NYBON) a consent order was filed on September 26, 2012, Respondent's license to practice as a registered nurse was suspended for two (2) years of which five (5) months were to be served as an active suspension with the remaining 19 nineteen months to be served as a stayed suspension and a \$1,000.00 fine.

4. The basis of the New York action was Respondent's failure to report to the NYBON that on or about January 28, 2011, in the County for Erie County, State of New York, she was convicted of the crime of Petit Larceny for stealing cash, gift cards and other items while employed and practicing as a nurse at the center for Hospice and Palliative Care in Cheektowaga, New York. Additionally, on or about September 22, 2010 Respondent re-registered her license to practice as a registered professional nurse in New York State without disclosing to the NYBON that she had been arrested for Petit Larceny in Erie County, New York and that criminal charges were pending against her which eventually led to her conviction.

5. Respondent is required pursuant to N.J.A.C. 13:37-5.9(a)2 and 4 to immediately notify the Board when convicted of a crime involving moral turpitude or relating adversely to his/her practice; or is the subject of any disciplinary action or order by any state or Federal agency, board or commission.

6. Respondent failed to notify the Board of her conviction on charges of petit larceny for stealing while practicing as a nurse; and failed to notify the Board of the September 26, 2012 consent order imposing a two year suspension of license.

CONCLUSIONS OF LAW

The Board finds that Respondent's indication on her 2013 renewal application that she had neither been arrested or charged with or convicted of any crime or offense when she had been convicted on January 28, 2011 of stealing while employed as a nurse in New York constitutes misrepresentation in violation of N.J.S.A. 45:1-21(b). Respondent's failure to notify the Board of the conviction or of the September 26, 2012 disciplinary action constitutes a violation of N.J.A.C. 13:37-5.9, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21(h). The suspension of Respondent's New York nursing license subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(g).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline (POD) was entered on September 20, 2014 and a copy served on Respondent to Respondent's address of record with the Board by regular and certified mail. Pursuant to the Provisional Order, Respondent's license in the State of

New Jersey was to be suspended upon finalization of the order until her license is in good standing in New York.

The provisional suspension of licensure was based on Respondent's failure to be truthful on her application as to her prior arrests and as to having been the subject of disciplinary action by another state's licensing entity. Pursuant to its statutes and regulations and inasmuch as the public may not be in a position to evaluate the integrity and qualifications of health care professionals, it is the Board's responsibility to ensure that licensees submit accurate, truthful and reliable information on the biennial application prior to renewing licensure.

The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

According to the United States Postal Service website tracking for certified mail with return receipt #7003 1010 0005 3205 7527, the mail was delivered and signed for on October 04,

2014. The regular mail was not returned as undeliverable. Therefore, the Board deems service to have been effected as the mailing were sent to Respondent's address of record with the Board. To date, the Respondent has not submitted a response to the Provisional Order. Respondent cannot evade process by failing to respond. Accordingly, the Board considered the matter, determined that further proceedings were not necessary and the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 31 day of March, 2015,

ORDERED that:

1. Respondent is hereby reprimanded for the violations of N.J.S.A. 45:1-21 (b), (e) and (g).

2. Respondent's license to practice as a registered nurse in New Jersey is hereby suspended until Respondent's license is in good standing with the NYBON.

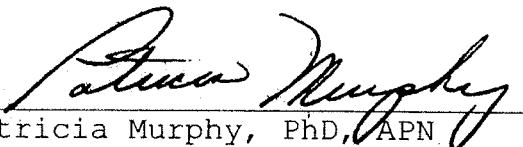
3. Respondent shall cease and desist from practicing as a registered nurse in New Jersey and shall not represent herself as a licensed registered nurse in this state until such time her license is reinstated. Any practice in this state prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

4. A civil penalty in the amount of two hundred fifty dollars (\$250.00) is imposed upon Respondent for her violation of N.J.S.A. 45:1-21 (b), (e) and (g). Payment shall be made by

certified check or money order payable to "State of New Jersey," delivered to George Hebert, Executive Director, State of Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than fifteen (15) days after the entry of any Final Order of Discipline in this matter. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE BOARD OF NURSING

By:


Patricia Murphy, PhD, APN
Board President